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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,989	09/29/2003	Paul D. Lucas	56231-434 (MKS-135)	2828
7590	07/26/2005		EXAMINER	
Toby H. Kusmer, Esq. McDERMOTT, WILL & EMERLY 28 State Street Boston, MA 02109			BASTIANELLI, JOHN	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/673,989	LUCAS ET AL.
	Examiner	Art Unit
	John Bastianelli	3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 May 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-40 and 42-45 is/are pending in the application.
 - 4a) Of the above claim(s) 22-40 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-21 and 42-45 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 September 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the slide plate having passageways must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The title of the invention should not include the term “improved”. Please amend the title to show this change.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-21 and 42-45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The explanation give in the response of May 17, 2005 refers to the prior art of Figures 3 and 4 and does not give any explanation of the passageways in relation to the conductance.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Once again, claims 16-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The fasteners are not disclosed in the drawings and are not understood in the specification. It is not understood how the fasteners are attached. Applicant's response does not give an explanation of how the fasteners are usable in this invention.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 8-9, and 42-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim US 3,401,915.

Kim discloses a housing having a flow channel and a valve seat surrounding the inlet of the flow channel, a slide plate 17 located in the housing and movable transversely to an axis of the flow channel between a closed position in which the slide plate blocks flow through the flow channel, and an opened position, in which the slide plate allows flow through the flow channel, and a seal ring 21 and 32 positioned between the valve seat of the housing and the slide plate with the seal ring having a surface facing the slide plate and a surface facing the seal ring in the closed position; wherein at least one of the slide plate and the seal ring includes a plurality of unobstructed passageways 34b for increasing conductance between the slide plate and the seal ring prior to the seal ring contacting the slide plate. The seal ring has a nipple 32 or end of 21 and an o-ring 32 is in the groove of the nipple.

9. Claims 1, 8-9, 11-13, 21, and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Brida US 5,577,707.

Brida discloses a housing having a flow channel and a valve seat surrounding the inlet of the flow channel, a slide plate 9 located in the housing and movable transversely to an axis of the flow channel between a closed position in which the slide plate blocks flow through the flow

channel, and an opened position, in which the slide plate allows flow through the flow channel, and a seal ring 11 positioned between the valve seat of the housing and the slide plate; wherein at least one of the slide plate and the seal ring having a surface facing the slide plate and a surface facing the seal ring in the closed position, includes at least one unobstructed passageway (Fig. 3, slide plate 9 has a passageway on the right side) for increasing conductance between the slide plate and the seal ring prior to the seal ring contacting the slide plate. The seal ring has a nipple 12 and has an annular groove with an o-ring 13. The slide plate is pivotally movable with a shaft having pivot arm. The valve assembly is for a process chamber in a vacuum valve.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brida US 5,577,707 in view of Maher, Jr. US 6,409,149.

Brida lacks a cam mechanism. Maher, Jr. discloses a cam mechanism. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the cam mechanism of Maher, Jr. to actuate the valve of Brida in order to provide better sealing of the plate to the seat.

12. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brida US 5,577,707.

Brida lacks a plurality of passageways. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a plurality of passageways as this would provide more flow and since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8 (CA 7 1977).

Response to Arguments

13. Applicant's arguments filed May 17, 2005 have been fully considered but they are not persuasive. Kim and Brida both disclose an unobstructed passageway for increasing conductance between the slide plate and the seal ring prior to the seal ring contacting the plate as far as the claim is defined. The applicant has not limited the unobstructed passageway therefore any passageway will meet the claim limitations.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Bastianelli whose telephone number is (571) 272-4921. The examiner can normally be reached on M-F (9:00-6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John Bastianelli
Primary Examiner
Art Unit 3751



JB

July 21, 2005